



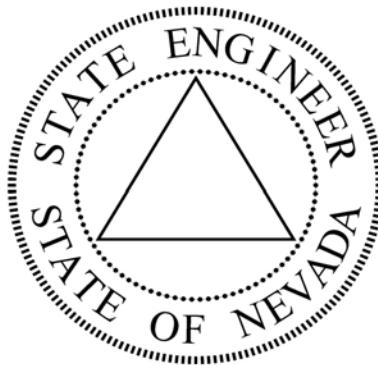
STATE OF NEVADA

**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES**

GUIDELINES FOR TRANSFERRING OWNERSHIP OF WATER RIGHTS

STATE ENGINEER'S OFFICE

HUGH RICCI, P.E., STATE ENGINEER



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AUTHORITY AND PURPOSE

The State Engineer is authorized and is responsible for maintaining water right files and accompanying documents as per Nevada Revised Statutes Chapters 111, 240, 375, 532, 533 and 534.

By Nevada Revised Statute 111.167, water rights are presumed to transfer with the land to which appurtenant, unless the Grantor in conveyance documents specifically reserves the water rights. A conveyance document is any instrument that legally transfers ownership of property. It may be a Quitclaim Deed; Grant, Bargain and Sale Deed; a final Decree of Distribution; or a Certificate of Incorporation from the Secretary of State, etc. As with land, water rights are considered “real property” and similar procedures are required to convey ownership. Although documents conveying title to land and water are required to be recorded in the County Recorder’s Office, the County Recorder does not forward copies of such documentation to the State Engineer’s Office. It is the new owner’s responsibility to file such documents with the State Engineer’s Office in a timely manner according to law.

A *Report of Conveyance* provides water right holders, agents, etc. a method and means to organize document submittals that will expedite processing in the Office of the State Engineer in accordance with NRS requirements. The reporting process requires the party requesting a change of title from the currently recognized holder to submit a complete conveyance packet consisting of:

- 1) A notarized *Report of Conveyance* form that identifies the application, permit, proof, or claim information,
- 2) An *Abstract of Title* that catalogues the deeds or other documents which support a valid chain of title from the current holder to the new holder, and
- 3) Copies of all documents listed on the *Abstract of Title* that have not been filed previously with the Office of the State Engineer and any other pertinent information as required.
- 4) Payment of statutory fees of a one-time \$25 filing fee and \$10 per document per water right file number.

The Office of the State Engineer will not consider or treat a person as an owner in the water right until the report is confirmed, including notifications, in granting of permits to change the point of diversion, place of use, or manner of use, etc. The State Engineer is not required to confirm a new owner of record where conflicts in the chain of title exist and/or if the duty or rate of diversion cannot be determined from the documentation filed. Reports returned with a notice of any deficiencies will be rejected unless the required information is supplied to cure the deficiency. The Office of the State Engineer may waive specific requirements and may require additional supporting information, if circumstances warrant.

The State Engineer won’t accept a deed not recorded with the county recorder(s)*. Any deed not recorded with a county recorder is deemed void after October 1, 1995 against a subsequent purchaser who in good faith purchased the same water right and recorded his deed with the county recorder according to state law. The recording requirement establishes proof of constructive notice for valid recognition in the Office of the State Engineer to facilitate orderly processing. County recorder offices usually require several weeks to return original documents after submittal for recording. Conformed copies returned over-the-counter as duplicate originals are not deemed to be compared to the original recorded document and therefore should not be submitted with Reports of Conveyance.

The Office of the State Engineer, Division of Water Resources, reviews only the information that has been filed and may amend or update water right ownership upon receipt of additional information. All forms used by the Division of Water Resources are now available for downloading from our website at <http://water.nv.gov>. Any questions pertaining to deeds and R.O.C. submittals can be directed to the Deeds Section of the Office of the State Engineer, Division of Water Resources, 901 S. Stewart St. Fl. 2, Carson City, NV 89701-5200, or call 775-684-2800.

*Effective July 1, 2003 NRS 111.312 and 247.110 recording requirements have been limited to paper size 8½” x 11”, requires 1” margins, APN’s on upper left corner of first page, Grantee address, and blank 3” x 3” recording block in upper right hand corner of first page. Documents not conforming to this criteria are subject to a \$25.00 surcharge in addition to regular recording charges.

INSTRUCTIONS FOR COMPLETING THE REPORT OF CONVEYANCE

A complete and accurate *Report of Conveyance* packet with accompanying documents and fees constitutes a valid water right transfer of ownership request when submitted to the State Engineer. Copies of this form may be used so long as the copy is on **green** paper similar to the shade of the original. Be sure that the back of the form is copied as well. Please note that the *notary stamp and signature must be original on each form* and not a facsimile. Please reference the green *Report of Conveyance* blank form and the example form in Exhibit A. An explanative example and a completed example of abstract of title forms are found in Exhibits B and C. Note: Items 7 to 13 may be left blank if filing only a *Notice of Pledge* and/or *Deed of Trust*.

Item 1. Each Application, Permit, Proof or Claim requires a separate Report of Conveyance and Abstract of Title. Enter the "Application/Permit" Number on the first blank line or "Proof" or the decreed "Claim" number in the second blank. The Office of the State Engineer permanently assigns the Application Serial Numbers upon receipt of all new applications. ... *Do not use Certificate Numbers.* See the *Frequently Asked Questions* section for an explanation of the different *status* meanings.

- Specify the **Status** as an Application, Permit, Certificate, Proof, Decreed, Vested Right, Protested, Forfeited, Abrogated, etc. Please note, if a subsequent permit has changed a water right, the *new* permit serial number is the appropriate water right on which to request an assignment rather than the earlier, abrogated right.
- Specify the **Use** as Irrigation, Quasi-Municipal, Stock Water, Commercial, etc.

Item 2. Current holders: List all owners' names *exactly* as shown in the water rights files in the office of the State Engineer. If the conveyance packet submitted is only transferring a portion of a permit, proof or claim, list only those previous owners relevant to that portion being conveyed.

Item 3. New holders: List all names *exactly* as listed on transfer documents being submitted along with current mailing address(es), phone number(s) and percentage(s) or portion(s). Do not use abbreviations or *et. al.* or *et. ux.* unless specifically stated that way in the transfer documents. If more space is needed, use remarks *Item 15* or an attachment sheet for multiple owners and addresses.

Item 4. Copies of recorded documents are required. The recording number and time/date stamp must be included on each document. Documents must be on 8½" x 11" paper, legible, arranged in chronological order and labeled with deed numbers to match the abstract. Only a single copy of each document needs to be submitted when they are referenced in multiple abstracts. These documents are then normally filed under the lowest permit, proof or claim number relevant to the submittal. Documents already on file in the Office of the State Engineer need not be duplicated or resubmitted, but will be assessed a document filing fee when listed in the abstract for another water right. Abstracts should reference such documents as "A.O.F." (Already On File) and state the deed number and water right under which the deed was previously filed. No documents can be returned once the assignment is completed.

- Any differences in names (for example, Richard W. Carson, Sr. versus Richard W. Carson versus Richard Carson versus Dick Carson, etc.) of the Grantors and Grantees in the chain of title must be reconciled. An ***Affidavit of Identity*** may be used to reconcile differences listing all aliases. The affidavit must have an original notarized signature and notary stamp. No filing fee will be charged for *Affidavits of Identity* supporting chain of title documents. A model *Affidavit of Identity* has been included with these guidelines. See Exhibit B, Line 6 for proper entry of an affidavit on the abstract.
- **Notice of Pledge & Deed of Trust** documents are filed "for security purposes only" to recognize interests of beneficiaries, lenders, etc. The name of the Trustee, lender and/or beneficiary should be listed in the report as the new holder or grantee, while the person signing the *Deed of Trust* should be shown as the current holder or grantor. **Note:** A Reconveyance, is required to release an encumbrance on our records. Due to the bulk of many Deeds of Trust, this office prefers to receive the briefer ***Notice of Pledge***. A model *Notice of Pledge* has been included with these guidelines. An alternative to filing security instruments using the *Report of Conveyance* method is available by using the Instrument Filing Fee method. Please contact the Deeds Section for more information concerning this alternative.
- Agreements, leases, liens, rental options, contracts, ditch rights or shares, etc. are not recognized as conveying ownership interest, however, such information may be submitted along with the appropriate deed(s) for purposes of clarification and are chargeable documents when submitted as a part of the abstract with a *Report of Conveyance*.
- A copy of a *Death Certificate* may be accepted to recognize the surviving joint tenant when an **Affidavit Terminating Joint Tenancy** is unavailable. The affidavit should be procured whenever possible.

Item 5. A \$25 filing fee plus \$10 for each chargeable document must accompany the Report of Conveyance. Checks should be made payable to "Nevada State Engineer."

...NOTE: Only one \$25.00 filing fee is required for related Reports of Conveyance submitted at the same time and using an identical chain of title (i.e. same documents listed to transfer different water rights). A \$10.00 fee is still required for each document per each water right (Example - 2 documents filed in 3 permits = \$60.00 plus \$25.00 for the filing fee.) The \$25.00 fee should be charged to the lowest water right number to which the chain applies. The \$25 filing fee becomes non-refundable after expiration

Item 6. Each item of the abstract must be completed.

- Use the standard letter size abstract form unless the conveyance transfers a Truckee River Decree Claim. There is a separate legal size *Abstract of Title* form for these claims that can be obtained through our website.
- List each deed chronologically by recording date, numbering the deeds consecutively, with the oldest deed listed first.
- List all grantors and grantees, exactly as they appear on each document. **Note:** Trusts and Estates are the legal owners. Do not list trustees or administrators as grantees or grantors without the specific name of the trust. *Substitution of Trustee* documents must be included when necessary to show the transfer of authority.
- Specify the diversion rate (except for transfers under claims in the Carson River Decree), the Duty, and Units or Acres. List only the acreages covered by the appurtenant water rights. See **Item 10** for units of diversion rate and duty. These items must agree with the records of the State Engineer.
- When utilizing the Decreed Abstract of Title form, list the Place of Use being transferred in each conveyance document specifying the water righted acreages within each applicable 40 acre subdivision (quarter-quarter) of each section, township and range.
- List the serial number assigned and the date recorded by the county recorder for each document. Common document description examples are depicted on the example abstract. The recorder's information must be legible on all transfer documents.
- Identify maps by assessor's number, water right, parcel, subdivision, etc. with document numbers. Maps are considered to be a part of the transfer document.

Item 7. Supplemental Water Rights share a place of use or a portion thereof and should be transferred together. State the application, permit, proof or claim numbers for all the supplemental water rights.

Item 8. Indicate the county(s) where the **Point(s) of Diversion** is/are located. Also indicate the county(s) of the **Place(s) of Use**, or if the place of use is in more than one county, indicate all counties. All conveyance documents must be recorded in each county containing either the Point of Diversion and/or Places of Use, with recording information from each county included on the abstract of title.

Item 9. List the place(s) of use using legal subdivision descriptions. Use item 15 or an attachment as necessary. Please include the Assessor's Parcel Number(s) (APN's) and parcel map for all parcels.

Item 10. Duties indicated must be verifiable in the Office of the State Engineer or no *confirmation of assignment* letter will be issued. Include a diversion rate in CFS and/or volume in acre-feet or million gallons. If the diversion rate is not stated, it will be calculated to be proportional to the volume in the permit or certificate:

diversion or flow rate

CFS = cubic feet per second (1 CFS = 448.83 gallons per minute)

volume or duty

AFA = acre feet annually

AFS = acre feet per season

(723.97 AFA = 1 CFS flowing for 1 year)

(1 AFA = 0.325851 MGA)

MGA = million gallons annually

MGS = million gallons per season

(235.906 MGA = 1 CFS)

(1 MGA = 3.0689 AFA)

Item 11. If the current owner(s) of record listed in Item 2 are retaining ownership of a portion of the water right, answer yes to this question. If the entire amount presently held by the current owner(s) of record is to be transferred, indicate no. The current owners of record and the amount of a water right each owner holds may be found on the Summary of Ownership in the water right files of the State Engineer's Office.

Item 12. If an **Application to Change** the P.O.D., P.O.U., or M.O.U. is on file; mark the "Yes" box. If the water is to be used under the current permit or certificated terms, mark the "No" box.

Item 13. Indicate the new **Application to Change** number.

Item 14. List any other permits utilizing the same abstract/chain of title. *Report(s) of Conveyance* can be supported by deed(s) already on file or submitted in other reports, if correlation is established and referenced properly in the abstract as "**A.O.F.**" citing filed locations, such as *A.O.F. under Permit 12345*.

Item 15. Remarks: Use this section to explain items above where more space is needed before using an attachment page

Item 16. Affidavit Section. The notary will complete and must sign this form at the (ss) line and stamp the form in the area indicated. Owners, agents or representatives attesting to the facts must sign at the signature line *only in the presence of the notary public*. Fill in the current contact information for the mailing address and phone number and check the correct box as agent or owner. Our office provides notary service at no charge for water right related documents.

Please allow 3-6 months processing time from submittal date to receive a response from our office. If in the review process deficiencies are detected, follow-up letters to owners or their representatives requesting additional information will be sent which will allow sixty (60) days for compliance. After this time frame the Conveyance Packet(s) become subject to rejection.

The new Owner(s) of record will be mailed the original *confirmation of assignment* letter along with a revised copy of the *Summary of Ownership*. Any agents or representatives on record will receive a copy of the confirmation letter.

NOTE: It is the responsibility of owners to file changes of address with this office.

F R E Q U E N T L Y A S K E D Q U E S T I O N S :

Why do I need to file a *Report of Conveyance* to update the title records in the State Engineer's Office?

Answer: State Statutes require submittal of all conveyances of water rights taking place after October 1, 1995 to be filed in our office. Timely filing helps prevent future title conflicts created by insufficient or incorrect documentation that become difficult and costly to resolve later. As more water rights are changed and ownership is divided and transferred frequently, it is increasingly important for all the conveyance documents involved in the chain of title be on file in our office to allow equitable and accurate decisions affecting those rights and proper noticing of actions related to the subject water rights. As water rights are changed or sold, the State Engineer's staff provides reviews to validate and "confirm" those rights to the proper owners.

How can I determine what my water rights really are?

Answer: The public records and staff in the Division of Water Resources are available to citizens and professionals to help research, evaluate, and establish ownerships and resolve other water right issues.

What does the *status* of a water right mean?

Answer: The status indicates the point in the administrative process reached towards perfecting a water right application. The usual sequence is *application*, *ready for action*, *permit*, and finally a *certificate*. Applications are assigned a permanent serial number. An *application* becomes *ready for action* 30 days after the last date of publication. *Permit* status is obtained only when the State Engineer approves it. Terms in a permit set forth conditions, submittals and time frames that must be met. A Permit is only a temporary allowance and the final water right duty under a Permit will be dependent upon the amount of water actually placed to beneficial use. A *Certificate* may be issued when a water right's *Proof of Application of Water to Beneficial Use* has been verified.

Proofs are claims of vested rights filed by notarized Affidavit attesting to perpetual historical usage beginning prior to the first water law statutes. They are assigned a permanent serial number including a leading 0. The adjudication process is an orderly statutory procedure by which a court "takes proofs" to determine owners, priorities and amounts of water usage. It then issues a court order to "decree" the rights to a source of water. After a court order is issued, the *proof* status may change to a *decree* right.

Applications proceed through an administrative process while *proofs* require a judicial process.

What does the term supplemental rights mean?

Answer: Supplemental rights share the same or an overlapping place of use. Multiple sources of water or Points of Diversion may be used and/or multiple applications may be filed on a single point of diversion to satisfy all the demand required within the place of use. Often supplemental rights will reference other permit numbers and a maximum total combined duty that can be used to satisfy the demand. Other supplemental rights don't state their complementary permits but are supplemental due to a shared place of use. The total combined duty may be stated in the terms of the permit to be the total amount of water that can be diverted to meet the maximum allowed under all of the supplemental permits. Supplemental rights issues can be determined through a review of the records in the S.E. office.

Why do I need to indicate the County in two places on the form for question 8?

Answer: If the point of diversion is in a different county than the place(s) of use, state law requires conveyance documents be recorded in each respective county. Recording serves to notify the public that a title transfer has occurred. The recording numbers and recorders stamp from each county must be legible on your transfer documents and all county numbers are to be included on the abstract of title.

How do I know which application or permit to file my *Report of Conveyance* on?

The important thing to remember is the names have to match between the earlier right and the changed right-you must own the earlier base right before you can change it. If the change application is in the new owners name, then file the *Report of Conveyance* on the base right. If the base right is in the previous owners name, then file the *Report of Conveyance* on the base right and file any new change application in the new owners name. Otherwise, you may need to file a *Report of Conveyance* on both rights.

Why and when do I have to file a map?

Answer: If a map is referenced in any of the transfer documents listed on the abstract of title form the map must be included in the conveyance packet, unless the property conveyed therein is fully defined in the transfer document with a legal description. Such a description would contain survey information to the nearest 40-acre subdivision shown such as SE¼ SE¼ Sec. 1, T12N R19E,

M.D.B.&M. When a transfer document references property with Lot and Block numbers, a copy of the applicable subdivision map from the county assessor's office must be submitted. If maps are already on file in this office, they may be noted in Remarks as "A.O.F." with the file number referenced.

How will I know that your records have been updated to show my name as an owner?

Answer: You will receive a *letter of confirmation* along with copies of the affected Summaries of Ownership showing the name(s) of the new owner(s) and the portion assigned to each owner by diversion rate, duty amounts and/or acres or units. Please review the confirmation letter and Summary of Ownership carefully for accuracy, as these documents become the official records of ownership in the files of the State Engineer.

I have a lot of Permits. Can I do these forms on my computer?

Answer: Yes. Computerized forms are available on-line at <http://water.nv.gov> in MS Office (Excel and Word) and PDF formats. Both sides of the *Report of Conveyance* form must be printed out for processing on green copy paper only to conform to our filing regimens. Contact our office for more information.

RELATED STATUTES

Chapter 533.382 of NRS. Forms, acknowledgment and recording of conveyance.

Except as otherwise provided in Chapter 533.387 every conveyance of an application or permit to appropriate any of the public waters, a certificate of appropriation, an adjudicated or unadjudicated water right or an application or permit to change the place of diversion, manner of use or place of use of water must be:

1. *Made by a deed.*
2. *Acknowledged in the manner provided in NRS 240.161 to 240.168, inclusive; and*
3. *Recorded in the office of the county recorder of each county in which the water is applied to beneficial use and in each county in which the water is diverted from its natural source.*

Chapter 533.383 of NRS. Effect of recording or failing to record deed of conveyance.

1. *The recording of a deed pursuant to NRS 533.382 shall be deemed to impart notice of the contents of the deed to all persons at the time the deed is recorded, and a subsequent purchaser or mortgagee shall be deemed to purchase and take with notice of the contents of the deed.*
2. *The deed of:*
 - (a) *An application of permit to appropriate any of the public waters;*
 - (b) *A certificate of appropriation;*
 - (c) *An adjudicated or unadjudicated water right; or*
 - (d) *An application or permit to change the place of diversion, manner of use or place of use water, that has not been recorded as required Chapter 533.382 shall be deemed void as against a subsequent purchaser who in good faith and for valuable consideration purchases the same application, right, certificate or permit, or any portion thereof, if the subsequent purchaser first records his deed in compliance with Chapter 533.382.*

Chapter 533.384 of NRS. Filings required by person to whom conveyance is made.

1. *A person to whom is conveyed an application or permit to appropriate any of the public waters, a certificate of appropriation, an adjudicated or unadjudicated water right or an application or permit to change the place of diversion, manner of use or place of use of water, shall:*
 - (a) *File with the state engineer, together with the prescribed fee, a report of conveyance which includes the following information on a form provided by the state engineer:*
 - (1) *An abstract of title;*
 - (2) *Except as otherwise provided in subsection 2, a copy of any deed, written agreement or other document Pertaining to the conveyance; and*
 - (3) *Any other information requested by the state engineer.*
 - (b) *If the place of use of the water is wholly or partly within the boundaries of an irrigation district, file with the irrigation district:*
 - (1) *An abstract of title;*
 - (2) *Except as otherwise provided in subsection 2, a copy of any deed, written agreement or other document pertaining to the conveyance.*
2. *The governing body of any local government of this state and any public utility which is a purveyor of water within the state may submit an affidavit or other document upon oath in lieu of the documents otherwise required by subparagraph (2) of paragraphs (a) and (b) of subsection 1, if the state engineer finds that:*
 - (a) *The affidavit clearly indicates that rights for diverting or appropriating water described in the affidavit are owned or controlled by the governing body or utility; and*
 - (b) *The affiant is qualified to sign the affidavit.*

Chapter 533.386 of NRS. Duties of state engineer concerning conveyances.

1. *The state engineer shall confirm that the report of conveyance required by paragraph (a) of subsection 1 of Chapter 533.384*

includes all material required by that subsection and that:

- (a) The report is accompanied by the prescribed fee;
 - (b) No conflict exists in the chain of title that can be determined by the state engineer from the conveyance documents or from other information on file in the office of the state engineer; and
 - (c) The state engineer is able to determine the rate of diversion and the amount of water conveyed in acre-feet or million gallons from the conveyance documents or from other information on file in the office of the state engineer.
2. If the State Engineer confirms a report of conveyance pursuant to subsection 1, he shall in a timely manner provide a notice of the confirmation to the person who submitted the report of conveyance. The notice must include, without limitation, a statement indicating that neither the confirmation of the report of conveyance nor the report of conveyance, if the report sets forth the amount of water conveyed, guarantees that:
- (a) The water right is in good standing with the office of the State Engineer; or
 - (b) The amount of water referenced in the notice or in the report of conveyance is the actual amount of water that a person is entitled to use upon the conveyance of the application or permit to appropriate any of the public waters, the certificate of appropriation, the adjudicated or unadjudicated water right, or the application or permit to change the place of diversion, manner of use or place of use of water.
3. If the state engineer determines that the report of conveyance is deficient, he shall reject the report of conveyance and return it to the person who submitted it with:
- (a) An explanation of the deficiency; and
 - (b) A notice stating that the state engineer will not confirm a report of conveyance that has been rejected unless the report is resubmitted with the material required to cure the deficiency. The notice must also include a statement of the provision of subsection 3.
4. The state engineer shall not consider or treat the person to whom:
- (a) An application or permit to appropriate any of the public waters;
 - (b) A certificate of appropriation;
 - (c) An adjudicated or unadjudicated water right; or
 - (d) An application or permit to change the place of diversion, manner of use or place of use of water, is conveyed as the owner or holder of the application, right, certificate or permit for the purposes for this chapter, including, without limitation, all advisements and other notices required of the State Engineer and the granting of permits to change the place of diversion, manner of use or place of use of water, until a report of the conveyance is confirmed pursuant to subsection 1.

Chapter 533.387 of NRS. Inapplicability of certain provisions to conveyance of shares of stock in ditch company.

The provisions of Chapter 533.382 to 533.386, inclusive, do not apply to the conveyance of shares of stock in a ditch company which owns:

1. An application or permit to appropriate any of the public waters;
2. A certificate of appropriation;
3. An adjudicated or unadjudicated water right; or
4. An application or permit to change the place of diversion, manner of use or place of use of water.

Chapter 533.435 of NRS. Fees of state engineer.

1. The state engineer shall collect the following fees:

For examining and filing a report of conveyance filed pursuant to paragraph (a) subsection 1 of NRS 533.384

Report of conveyance \$25.00

Plus \$10.00 per conveyance.

For filing any other instruments \$1.00

Chapter 111.167 of NRS. Presumption of conveyance with land: Water rights, permits, certificates and applications appurtenant to land.

Unless the deed conveying land specifically provides otherwise, all:

1. Applications and permits to appropriate any of the public waters;
2. Certificates of appropriation;
3. Adjudicated or unadjudicated water rights; and
4. Applications or permits to change the place of diversion, manner of use or place of use of water, which are appurtenant to the land are presumed to be conveyed with the land.

Chapter 375.010 of NRS. Definitions.

The following terms, wherever used or referred to in this chapter, have the following meaning unless a different meaning clearly appears in the context:

1. "Deed" means every instrument in writing, except a last will and testament, whatever its form, and by whatever name it is known in law, by which title to any estate or present interest in real property, including a water right, permit, certificate or application, is conveyed or transferred to, and vested in, another person, but does not include a lease for any term of years or an easement.

2. "Value" means:

(a) In the case of any deed not a gift, the amount of the full, actual consideration paid or to be paid, excluding the amount of liens assumed.

(b) In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the real

property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.